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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,315	12/08/2003	Kenneth L. Suazo	2224.006DIV	5073

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EXAMINER

LEE, JONG SUK

ART UNIT PAPER NUMBER

3673

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/731,315

Applicant(s)

SUAZO ET AL. *af*

Examiner

Jong-Suk (James) Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2004.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) 7-19 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-5 is/are rejected.  
7) ☒ Claim(s) 6 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restriction*

1. Applicant's election with traverse of Group I directed to claims 1-6 in the reply filed July 7, 2004 is acknowledged. Claims 7-19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected inventions.

The traversal is on the ground(s) that:

i) With respect to the argument under subtitle, "The subject Matter is Dependent" which the application under examination shows the inlet/outlet box, splitter section, diversion section and adaptor being in fact connected in design, operation and effect not only among themselves but with the subject matter of claims in the parent application include the terms including a ditch liner section, an inlet/outlet box or channel, a diversion section, an adaptor and a splitter section as described and claimed in this document, this is not found persuasive because in the present application, applicants claim each sections, such as the aforementioned structural elements, of the ditch lining system separately and independently in each claim groups with merely reciting a liner section having a leading/forward end, a trailing/following/back end..... with locking channel segments formed adjacent leading and/or trailing end. Therefore, claimed subject matters are considered to be the aforementioned structural elements which are independently and/or distinct insofar as the elements are claimed separately in combination with the liner section.

ii) With respect to the argument under subtitle, "The subject Matter is Distinct" which the inlet/outlet box, splitter section, diversion section and adaptor could be manufactured by rotational molding as components of a unitary body, not only the molding process of the liner sectional elements but also the assembling process to make a final product as a useful lining system could be distinct while the whole assembled system being installed in the desired site with the different combinations of the sectional elements claimed in the present application in order to achieve the predetermined results.

iii) With respect to the argument under subtitle, "Classification System" which the class definition for class 405 is sufficiently broad in scope to include all the claims of the application in a single group for examination, given the context of the application as a whole and the subclasses mentioned in Groups II-V could as well be sub-classified in a single Group under subclass 40, the class and subclasses set forth in the restriction requirement are not necessarily the complete search for all inventions. Further, an argument that the claims of the different inventions would be covered by the same search cannot be used as a criteria for a proper traversal of the restriction requirement because 35 U.S. C. 121 makes not provision for such provision for such grounds for traversal.

The requirement is still deemed proper and is therefore made **FINAL**.

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***Specification***

2. The disclosure is objected to because of the following informalities:

The continuing data in the first paragraph of the specification is omitted.

Appropriate correction is required.

***Claim Objections***

3. Claims 2-4 are objected to because of the following informalities:

Claim 2, line 2: -- in cross section -- should be inserted after "semi-circular".

Claim 3, line 2: -- in cross section -- should be inserted after "semi-circular".

Claim 4, line 2: -- in cross section -- should be inserted after "rectangular".

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103<sup>o</sup> and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

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5. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suazo (US 6,273,640) in view of Koch (US 3,446,025).

Suezo discloses a plastic lined canal with a conduit section comprising: a liner section (12, 38) having an entrance end, an exit end, and opposing fins therebetween; a locking channel segment (42) monolithically formed adjacent the exit end; opposing handle assemblies (46 A, B) formed monolithically adjacent the entrance end and the exit end, wherein the liner section and the exit end are semi-circular in shape (see Figs. 1-2; col.2, lines 31-67; col.3, lines 1-23).

However, Suezo fails to disclose or fairly suggest means for anchoring the inlet/outlet box and the opposing handle assemblies include one or more holes for slidable engagement with a rod. Koch discloses a fluid distribution system comprising of a plurality of flume sections (1) having a handle assembly (2) with an anchor means/rod (3) being slidably installed through holes/slots (13) (see Figs. 1-4; col.1, lines 58-72; col.2, lines 1-62).

Therefore, in view of Koch, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to add the anchoring means with the rod to the opposing handle assemblies of Suezo in order to enhance the stability of the installed liner section.

Although Suezo fails to specifically disclose the inlet/outlet box, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to use the liner section as an end unit in order to intake or outlet the water to the system.

With respect to the entrance end being rectangular in cross section, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to

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have such a rectangular shape in cross section to the end of the liner section in order to enhance the stability for the end portion while it is placed to the flat surface of the ground.

*Allowable Subject Matter*

6. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references cited disclose a rain chute, a corrugated tubing and a ditch liner system.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jong-Suk (James) Lee whose telephone number is (703) 308-6777. The examiner can normally be reached on 6:30 am to 3:00 pm, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Lee /jjl  
September 20, 2004



**Jong-Suk (James) Lee**  
**Primary Examiner**  
**Art Unit 3673**